



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/757,812	01/15/2004	Brandon P. Grote	3356-155	5409

24256 7590 04/21/2006

DINSMORE & SHOHL, LLP
1900 CHEMED CENTER
255 EAST FIFTH STREET
CINCINNATI, OH 45202

EXAMINER

WEST, PAUL M

ART UNIT	PAPER NUMBER
----------	--------------

2856

DATE MAILED: 04/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/757,812

Applicant(s)

GROTE ET AL.

Examiner

Paul M. West

Art Unit

2856

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-19 and 29-37 is/are allowed.
- 6) ☒ Claim(s) 20 and 26 is/are rejected.
- 7) ☒ Claim(s) 21-25, 27 and 28 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 20 and 26 are rejected under 35 U.S.C. 102(e) as being anticipated by Murphy et al.

The applied reference has a common assignee with the instant application.

Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

3. Regarding claim 20, Murphy et al. teach an apparatus for measuring fluid level in a tank comprising: a housing 102 including a level indicator 184 adapted to display a measured fluid level, the level indicator 184 including a first level indicating gear 188, a second level indicating gear 189 and a first indexing device 194 adapted to facilitate an incremental rotation of the second level indicating gear based on rotation of the first level indicating gear, wherein the first indexing device is adapted to interact with a first

Art Unit: 2856

corresponding level indicating gear 189 (the indexing device 194 fits between gears 188 and 189) to substantially prevent movement of the first indexing device 194 away from the first corresponding level indicating gear 188; a float 112; an elongated flexible member 114 with a first end attached to the float 112; a spool 176 adapted to store a portion of the elongated flexible member, the second end of the elongated flexible member being attached to the spool; and a biasing member adapted to urge the spool to automatically uptake portions of the elongated flexible member as the float travels towards the housing and adapted to allow the elongated flexible member to unwind from the spool as the float travels away from the housing (Col. 6, lines 62-67; Col. 7, lines 1-5).

4. Regarding claim 26, the level indicator 184 further comprises a third level indicating gear 190, and a second indexing device 195 adapted to facilitate an incremental rotation of the third level indicating gear based on rotation of the second level indicating gear, wherein the second indexing device is adapted to interact with a second corresponding level indicating gear 190 (the indexing device 195 fits between gears 189 and 190) to substantially prevent movement of the second indexing device 195 away from the second corresponding level indicating gear 189.

Allowable Subject Matter

5. Claims 1-19 and 29-37 are allowed.

Art Unit: 2856

6. Claims 21-25, 27 and 28 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

7. Applicant's arguments filed 17 February 2006, regarding claims 20 and 26 have been fully considered but they are not persuasive. Note that Murphy et al do teach gear 189 substantially preventing movement of indexing device 194 away from gear 188 by placing gear 189 on the opposite side of indexing device 194 and sandwiching the indexing device 194 between gear 189 and gear 188. In a similar manner, Murphy et al also teach gear 190 substantially preventing movement of indexing device 195 away from gear 189 by placing gear 190 on the opposite side of indexing device 195 and sandwiching the indexing device 195 between gear 190 and 189.

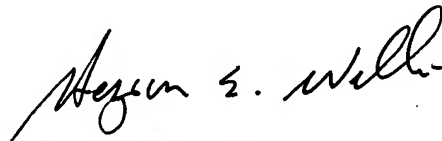
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul M. West whose telephone number is (571) 272-8590. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron Williams can be reached on (571) 272-2208. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2856

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Hezron Williams", with a long horizontal line extending to the right.

HEZRON WILLIAMS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800